

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer No. 53080
Harunari SHIMAMURA, et al. :
Application No.: 10/588,061 : Confirmation No.: 4340
Filed: August 1, 2006 : Group Art Unit: 1795
For: ALKALINE BATTERY : Examiner: TRACY MAE DOVE

ELECTION UNDER 35 U.S.C. § 121

Mail Stop Amendment
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed October 20, 2009, having a shortened statutory period for response set to expire November 20, 2009, wherein the Examiner required restriction between the following distinct Species:

Species 1 - a positive electrode containing manganese dioxide active material (claims 1, 4 and 5); or
Species 2 - an air positive electrode (claims 1, 4 and 6).

Applicants elect Species1, with claims 1, 4 and 5 readable thereon, for initial prosecution on the merits. Applicants also reserve the right to file a Divisional Application for the non-elected claims which the Examiner has indicated are patentably distinct.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time.

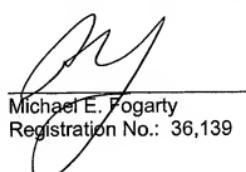
The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: 11/19/09

By:


Michael E. Fogarty
Registration No.: 36,139

600 13th Street, N.W., Suite 1200
Washington, D.C. 20005-3096
Telephone: 202 756 8000
Facsimile: 202 756 8087

WDC99 1795716-1.043888.0494